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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,434	12/15/2000	Lorin Evan Ullman	AUS9-2000-0703-US1	1867
7590	12/10/2004		EXAMINER	
Joseph R. Burwell Law Office of Joseph R. Burwell P.O. Box 28022 Austin, TX 78755-8022			VU, THONG H	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,434

Applicant(s)

ULLMAN, LORIN EVAN

Examiner

Thong H Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 0200 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Claims 1-21 are pending.
2. The Drawing is accepted by examiner.

Response to Arguments

3. Applicant's arguments filed 9/13/04 have been fully considered but they are not persuasive.

A. Double Patenting Rejection:

Applicant argues the independent claims of the present patent application '434 include an element similar to the first associating means for associating a mission critical twin endpoint with each mission critical endpoint"; this feature does not appear in the claims of the patent application '431. And the application '431 include "assigning means for assigning a mission criticality characteristic to each discovered endpoint"; this element does not appear in the claims of the patent application 434.

Examiner points out the mission critical endpoint such as a network node with a hardware/software failure which send an error message or a notification to the system administrator station or NMS using SNMP. It was obvious to a skilled in the art to recognize each node (i.e.: end point) has assigned a critical characteristic or parameter or address (i.e.; IP address, MAC address, name, etc.), Thus, "the first associating means for associating a mission critical twin endpoint with each mission critical endpoint" is equivalent to "assigning means for assigning a mission criticality characteristic to each discovered endpoint". The application '431 also discloses the twin network interface which obvious provides a twin endpoint as taught in application '434.

Thus the Double Patenting Rejection is sustained.

B. The U.S.C. 35 102 rejection:

Applicant's arguments, with respect to Claims 1-21 under Stupek-Orr have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Du-McBride.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9,15-21 are rejected under 35 U.S.C. § 103 as being unpatentable over Du et al [Du 5,826,239] in view of McBride et al [McBride 6,151,627].

4. As per claim 8, Du discloses an apparatus for managing a distributed data processing system, the apparatus comprising:

discovering means for dynamically discovering endpoints within the distributed data processing system [Du, keep track the dynamic status information, col 13 lines 38-48];

determining means for determining that a first discovered endpoint (source) communicates with a second discovered endpoint (destination) [Du, determine whether any valid route exist between the two end-ADMs, col 12 lines 35-45];

monitoring means for monitoring a status of the first discovered endpoint [Du, workflow process monitor col 7 lines 45-58; monitoring status information about each individual process, col 19 lines 27-35; col 20 lines 1-10];

first updating means for updating a status indicator for the first discovered endpoint [Du, status update procedures, col 17 lines 1-22]; and

Although Du discloses the history information and updating the status data in the resource database [Du, machine 1 (15a) and machine 2 (15b) Fig 1; status and history, col 15 lines 2-27; updating the group status data in the associated resource database, col 21 lines 12-15]. Du does not detail updating a status indicator for the second discovered endpoint based on a communication history between the first discovered endpoint and the second discovered endpoint.

A skilled artisan would have motivation to look into the well-known wherein the (SNMP/MIB) database stored the status history of the network communications devices in order to improve the monitoring and communication by updating process base on history information and found McBride teaching. McBride discloses a technique for monitoring a communication link between two stations using the history information [McBride, abstract].

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention was made to incorporate McBride's teaching of using history information between two nodes into the Du's apparatus in order to utilize the history information and update process. Doing so would provide a quick, simple and efficient data to monitor and manage the traffic flow via large network.

5. As per claim 9, Du-McBride disclose retrieving means for retrieving an SNMP table from the first discovered endpoint [Du, SNMP and CMIP gateway, col 9 lines 59-67]; searching means for searching the SNMP table for an address associated with the second discovered endpoint [Du, HP Open engine searching new paths with DBMS, col 12 lines 6-15]; and associating means for associating the first discovered endpoint with the second discovered endpoint in response to finding the address associated with the second discovered endpoint in the SNMP table [Du, SNMP and CMIP gateway, col 9 lines 59-67; determine whether any valid route exist between the two end-ADMs, col 12 lines 35-45].

6. Claims 1-2 and 15-16 contain the similar limitations set forth of apparatus claims 8-9. Therefore, claims 1-2,15-16 are rejected for the similar rationale set forth in claims 8-9.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-21 are rejected under 35 U.S.C. § 103 as being unpatentable over Du et al [Du 5,826,239] in view of McBride et al [McBride 6,151,627] and further in view of Yamamoto [6,049,825].

8. As per claim 10, Du-McBride disclose an apparatus for managing a distributed data processing system, the apparatus comprising:

configuring means for configuring monitoring parameters (i.e.: monitoring status indicator) for network interface cards (i.e.: network devices) within the distributed data processing system using a network management framework [Du, a generic framework, col 7 lines 19-35; keep track the dynamic status information, col 13 lines 38-48; machine 1 (15a) and machine 2 (15b), Fig 1];

discovering means for dynamically discovering a set of discovered endpoints within the distributed data processing system [Du, keep track the dynamic status information, col 13 lines 38-48];

designating means for designating a plurality of discovered endpoints as mission critical endpoints [Du, rule nodes with a list of condition-action rules, col 19 lines 50-67];

first associating means for associating a mission critical (**twin**) endpoint with each mission critical endpoint, wherein a mission critical (**twin**) endpoint is a discovered endpoint that has a communication history with a mission critical endpoint with which the mission critical twin endpoint is being associated [McBride, abstract].

However Du-McBride do not detail the network node as a twin endpoint or two Network interface cards in a computer node. It was well known in the art that a computer could have two NIC, one active and one for backup, as taught by Yamamoto [Yamamoto, abstract].

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention was made to incorporate the twin endpoint or double NIC computer node

as taught by Yamamoto into the Du-McBride apparatus in order to enhance the capability of each network node. Doing so would provide a reliability communication over network and reduce the downtime of performance.

9. As per claim 11, Du-McBride-Yamamoto disclose first retrieving means for retrieving an SNMP table from a discovered endpoint [Du, SNMP and CMIP gateway, col 9 lines 59-67]; first searching means for searching the SNMP table for an address associated with a mission critical endpoint [Du, HP Open engine searching new paths with DBMS, col 12 lines 6-15]; and second associating means for associating the discovered endpoint with the mission critical endpoint in response to finding the address associated with the mission critical endpoint in the SNMP table [Du, SNMP and CMIP gateway, col 9 lines 59-67; determine whether any valid route exist between the two end-ADMs, col 12 lines 35-45].

10. As per claim 12, Du-McBride-Yamamoto disclose first choosing means, for choosing mission critical **twin** endpoints from a subset of discovered endpoints which have not been previously specified as **twin** endpoints [Yamamoto, abstract].

11. As per claim 13, Du-McBride-Yamamoto disclose a first selecting means for selecting an endpoint in the subset of discovered endpoints that has a most significant communication history with a particular mission critical endpoint [Du, status and history, col 15 lines 2-27; when certain critical resources are available, col 19 lines 28-36]; and

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first creating means for creating a mission critical **twin** association between the selected endpoint and the particular mission critical endpoint in response to a determination of the most significant communication history [Yamamoto, abstract].

12. As per claim 14, Du-McBride-Yamamoto disclose second retrieving means for retrieving an SNMP table from a discovered endpoint in the subset of discovered endpoints [Du, SNM and CMIP gateway, col 9 lines 59-67];

second searching means for searching the SNMP table for an address associated with the particular mission critical endpoint [Du, HP Open engine searching new paths with DBMS, col 12 lines 6-15];

first obtaining means for obtaining, in response to finding the address associated with the particular mission critical endpoint in the SND/IP table, a value from the SNMP table to be compared with values obtained from other retrieved SNMP tables [Du, comparing to database trigger, col 19 lines 6-27]; and

determining means for determining the most significant communication history based on a comparison of the values obtained from the retrieved SNMP tables [Du, decision making facilities, col 19 lines 6-27].

13. Claims 3-7 and 17-21 contain the similar limitations set forth of apparatus claims 10-14. Therefore, claims 3-7,17-21 are rejected for the similar rationale set forth in claims10-14.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Patent Examiner
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A handwritten signature in black ink, appearing to read 'Thong Vu', with a long horizontal line extending to the right.